

**REGULAR MEETING OF THE COMMON COUNCIL
OF THE CITY OF PLATTSBURGH, NEW YORK**

August 12, 2010

5:55 P.M.

MINUTES

Present: Mayor Donald Kasprzak, Councilors Tim Carpenter (W1), Michael Kelly (W2), George Rabideau (W3), Jim Calnon (W4), Amy Valentine (W5), Chris Jackson (W6)

Absent: None

1. MINUTES OF THE PREVIOUS MEETING:

RESOLVED: that the Minutes of the regular meeting of the Common Council held on August 5, 2010 are approved and placed on file among the public records of the City Clerk's Office.

By Councilor Valentine; Seconded by Councilor Kelly

Roll call: Councilors Carpenter, Kelly, Rabideau, Calnon, Valentine, Jackson

(All voted in the affirmative)

2. PAYROLLS OF VARIOUS DEPARTMENTS:

RESOLVED: That the payrolls of the various Departments of the City of Plattsburgh for the week ending August 11, 2010 in the amount of \$ 256,591.40 are authorized and allowed and the Mayor and the City Clerk are hereby empowered and directed to sign warrants drawn on the City Chamberlain for the payment thereof.

By Councilor Calnon; Seconded by Councilor Jackson

Roll call: Councilors Carpenter, Kelly, Rabideau, Calnon, Valentine, Jackson

(All voted in the affirmative)

3. REPORTS OF CITY OFFICES & COMMITTEE REPORTS:

- Report of Fire and Ambulance Responses for the week of August 5 – August 11, 2010
- Report from the Building Inspector's Office from July 15 – August 9, 2010
- Statement from the City Clerk's Office of all monies received during the month of July 2010 in the total amount of \$13,394.08.

RESOLVED: That the reports as read are hereby ordered, received and placed on file among the public records of the City Clerk's Office.

By Councilor Rabideau; Seconded by Councilor Valentine

Roll call: Councilors Carpenter, Kelly, Rabideau, Calnon, Valentine, Jackson

(All voted in the affirmative)

4. **CORRESPONDENCE & RECOMMENDATIONS FROM BOARDS: None**

5. **AUDIT OF CLAIMS:**

RESOLVED: That the bills approved by the Auditing Committee of the Common Council in the amount of \$ 642,824.90 are authorized and allowed and the Mayor and City Clerk (where required) are hereby authorized and directed to sign warrants drawn on the City Chamberlain for the payment thereof.

By Councilor Jackson: Seconded by Councilor Calnon
Roll call: Councilors Carpenter, Kelly, Rabideau, Calnon, Valentine, Jackson
(All voted in the affirmative)

6. **PERSONS ADDRESSING COUNCIL: None**

7. **OTHER ITEMS:**

A. RESOLVED: In accordance with the request therefore the Common Council approves that the inside lane on the PARC Oval will be closed on Saturday, October 2, 2010 from 9 am until 11 am for the Autism Awareness Walk

By Councilor Valentine; Seconded by Councilor Calnon
Discussion: None
Roll call: Councilors Carpenter, Kelly, Rabideau, Calnon, Valentine, Jackson
(All voted in the affirmative)

ACTION TAKEN: Adopted

Follow up Action: None

B. Authorization To Sign Agreement with NY Worker's Compensation Board

Resolved, pursuant to a report and recommendation from the Mayor, Mayor Pro Tem, City Chamberlain and Corporation Counsel dated August 10, 2010, the Mayor is authorized to sign a **DEFICIT ASSESSMENT CONTRACTUAL AGREEMENT** with the New York State Workers' Compensation Board whereby the City of Plattsburgh will pay \$1,169,327.95 to settle claims by said Board for unfunded workers compensation benefits that accrued during the time the City was a member of the Public Entity Trust of New York; further

Resolved, the amount payable under said agreement is authorized to be paid in one installment from the City's unappropriated fund balance unless prior to making such payment the Common Council authorizes said payment to be made from note or bond proceeds; further

Resolved, a copy of the **DEFICIT ASSESSMENT CONTRACTUAL AGREEMENT** is ordered made part of the minutes of this meeting.

By Councilor Calnon; Seconded by Councilor Jackson

Discussion:

Councilor Carpenter asked what year this was.

Mayor Kasprzak answered it was 2002-2007. No one on this Council was here.

Councilor Rabideau wanted to verify it was one lump sum because resolution says “unless.”

Corporation Counsel John Clute stated that gives them 45 days to see what this year’s budget looks like, etc.

Councilor Jackson indicated if this came to a bonding thing he would not be in favor of that. We have cleaned up a lot with this cancel and done a great job of putting our financial house in order and hopefully this will be the last surprise.

Councilor Calnon echo’s everything that has been said before and is angered by the need but there is no sense looking backwards we are where we are and we have to clean it up.

Councilor Kelly stated he came here tonight to vote against this after listening to the conversation he has decided to support this and thinks it is bittersweet that they can afford to pay this and it feels like extortion.

Councilor Carpenter he agrees with everything but one thing he worries about is surprises come along and he will be amazed if this is the last thing. He is very proud of everyone at this table that they have been able to build a fund balance to weather this storm.

Mayor Kasprzak stated for the public that the City of Plattsburgh was part of public entity trust for workers compensation in 2002 they became members and in essence basically they went bankrupt.

Corporation Counsel John Clute further explained that New York State Workers Compensation Insurance Trust were aggressively promoted by the New York State Workers Compensation Board as a means of saving New York employers both public and private money in workers compensation premiums. We were a member of the Public Entity Trust of New York. There were 15 other Trusts that were funded all of them were managed by Compensation Risk Managers who grossly mismanaged all of them and possibly criminally mismanaged all of them. They weren’t properly supervised at the state level.

Mayor Kasprzak indicated that we were one of 13 of this particular trust the second largest member and our obligations are very high and we have a responsibility to pay this even though he personally would like not to as would others around the table.

Councilor Calnon when we entered the trust we accepted joint liability meaning that every individual member was responsible for the debt of all. The reason we should support this is that it says bigger share we let you go. The down side is considerably worse. As high as it is they can get

out of this at a fixed amount.

Roll call: Councilors Carpenter, Kelly, Rabideau, Calnon, Valentine, Jackson
(All voted in the affirmative)

ACTION TAKEN: Adopted

Follow up Action: None

8. TRAVEL REQUEST: None

9. RESOLUTIONS FOR INITIAL CONSIDERATION:

1. Request from Chris Dumont of The Green Room and Matt Mero of Showtime Gigs Entertainment Company to host an outside music festival from 2 pm until 8 pm closing Upper Bridge Street on Saturday, August 28, 2010.

Councilor Rabideau asked if it is open to the public. **Mayor Kasprzak** stated yes it will be the same set up as Mayor's Cup and they will utilize our stage etc.

2. Request from Bill Treacy, Manager MLD to write-off unpaid final bills from July 1, 2009 to July 31, 2009 in the total amount of \$2,269.10. The percentage of write-offs for this period is .24%.
3. Request from the Community Development Office to award B & E Improvement LLC, Project HOME 2009-2 for 144 Pine Street (Ricky and Linda Martin) at a total estimated cost of \$24,890.
4. Request from Police Chief Desmond Racicot for three Police Officers and a civilian employee to attend the "117th International Association of Chiefs of Police Annual Conference and Exposition" from October 21 - October 27, 2010 in Orlando, Florida. The cost will not exceed \$7,804.00 and will be paid out of the Asset Forfeiture Fund (Treasury Funds).

Councilor Calnon has emailed questions to the Police Chief and he will have more information for them by next week

10. NEW BUSINESS:

Councilor Calnon we received two checks today from the Town of Plattsburgh which were in excess of the amount that we expected to be from our April payment from them. However, it is their belief it is our total payment. They are paying us the April amount plus advancing the October amount and that may be true. There are some questions of fact he shared some information with the Council about what he saw in the agreement. He thinks the company may have seen the same thing since they made the \$350,000 payment which is the way he read the agreement. But he has heard thru the "grapevine" that there was a typo in the agreement and it didn't really mean what it said. **Mayor Kasprzak** asked "a typo?" **Councilor Calnon** repeated "a typo." The phrase in question is

“beginning after 2010 the semi-annual payments will be \$210,000.” He has heard rumor that the intent was for it to say “after January 1st of 2010.” Which would make it effective in 2010 as opposed to in 2011 he has not seen such a document. No one has officially told him any of that. He is still concerned about two things. One thing is if that in fact is the truth why hasn’t someone said that to us or pointed us out in a document and showed us. Why is it that we are held hostage for months and months on a payment because someone thought it was wrong and yet has not had the courtesy to come to us and say here’s why and he thinks that we should invite perhaps demand that someone that is a party to this or consenter to this agreement come to us and explain it to us. If it is true than fine you have met your obligation except he thinks there is a decency question here and he we deserve better. Which brings him to his second next point no matter what the amount of money is there is absolutely no excuse for it to take 4 months when the contract says 15 business days and he expected an apology, he expected interest but he would be happy with an apology. The agreement with the town does say you send us two-thirds of what you get. They got an \$116,000 they should have given us two-thirds of it. Now they have actually given us more than that and we haven’t seen how much the town will actually get in October. If the town gets \$70,000 in October than were fine the full years payments been made. That is not an excuse for doing nothing. The key element here is the town had a legal responsibility to accept on our behalf two-thirds of this money they also had a legal responsibility to transfer the two-thirds to us they failed to do that they have failed to resolve the question in their mind whether the amount was right or not. He doesn’t “get” how they think we are wrong on this. The company sent them \$350,000 not \$210,000 apparently the company read the documents the same way he did. He expects better of all the parties involved. Frankly, we got bad service and he is extremely upset about it.

Councilor Carpenter asked **Councilor Calnon** if he is making a motion to have someone from the town come and talk to them he would second it. **Councilor Calnon** said if they would like him to he would like to make a motion to ask someone from the Town of Plattsburgh, or the Development Agency or anyone of the consenters come and explain to us why it is apparently an error.

Mayor Kasprzak asked if with the Councils “blessing” could he have **Corporation Counsel John Clute** pursue this. He knows officially how they all feel. **Councilor Calnon** he would be withdraw his motion in favor of having **Corporation Counsel John Clute** do that.

Councilor Jackson said it is nice that we have \$93,000 but he respectfully thinks that the October payment that they received in advance should be returned because cashing that check is an acknowledgment in his mind of acceptance of the amount. He has the three agreements and the March agreement signed in 2009 says that they will make two semi-annual payments of \$350,000 which the company did in good faith. They are obligated to send us two-thirds back. He doesn’t want to accept the October payment. He would rather send it back and request the \$31,111.11 they owe us in the April payment.

Councilor Calnon suggests that if in fact we were given \$93,000 when we were expecting \$77,000 we should cash both of these checks and return the balance to them and say we look forward to your October payment.

Councilor Jackson said the problem he has with it is on the “memo” portion of the check it says

“October SPP payment.”

Councilor Rabideau agrees with **Councilor Jackson**.

Councilor Calnon asked **Corporation Counsel John Clute** if cashing the check means they accept it as October’s payment.

Mayor Kasprzak he understands everyone is angry about it and they are all right and for 17 years they have been paid on schedule. He believes he did the right thing in not budgeting for this amount. But he did expect to get paid. He feels we were mistreated and he is going to ask **Corporation Counsel John Clute** to look into their questions and get back to the **Council** tomorrow. Everyone agreed to that

Corporation Counsel John Clute said he will try to figure out what we are owed and get an explanation from somebody that supposedly knows and he will start with Adore Kurtz.

Councilor Jackson said his only concern is that by cashing the check they are accepting October’s payment.

Councilor Kelly saw many cyclists over the last few days in our community. It was great to see and hoped they enjoyed their time here and will come back.

Mayor Kasprzak said the comments around City Hall were that they were very pleased to be here.

Councilor Rabideau stated he observed the cyclist following the rules of the road.

Councilor Calnon stated he had spoken to several people in the hospitality industry and it was a good experience for all.

11. CLOSING PUBLIC COMMENTS: None

Motion to Adjourn by Councilor Jackson; Seconded by Councilor Calnon
Roll call: Councilors Carpenter, Kelly, Rabideau, Calnon, Valentine, Jackson
(All voted in the affirmative)
MEETING ADJOURNED: 6:19 pm